

January 8, 2019

Mr. James Burkman
BGE Environmental Management Unit
1669 Leadenhall Street
Baltimore MD 21230

RE: BGE Dolfield Substation
Forest Buffer Variance Request
Tracking # 04-18-2869

Dear Mr. Burkman:

The Department of Environmental Protection and Sustainability (EPS) received a request for a variance from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains (i.e. Forest Buffer Law) on November 30, 2018. If granted, the variance would allow temporary impacts to approximately 194 linear feet (2,348 square feet) of stream channel, permanent impact to 53 feet (165 sf) of stream, and 0.80 acres of area that would be Forest Buffer Easement to construct a flood wall in order to protect an existing electrical substation located predominantly in the 100-year floodplain to Gwynns Falls (Use I). However, the flood wall would effectively disconnect approximately 2.6 acres of Forest Buffer area and remove about 1.86 acres of 100-year floodplain storage from the Gwynns Falls according to GIS data. Nevertheless, the substation was constructed well prior to the Forest Buffer Law, and no direct impacts to that Forest Buffer area are proposed beyond the aforementioned 0.80-acre. Moreover, of the 0.80 acre of impact, only 840 square feet (<0.02 ac) would entail clearing forested Forest Buffer for maintenance of the overhead distribution line.

The variance application concludes that the only other feasible alternative to the preferred design to alleviate the flood hazard would be to excavate forested buffer area, including forested wetlands and floodplain, on the opposite bank of Gwynns Falls to gain floodplain volume. That would result in much greater impact to water quality and riparian habitat than the preferred alternative. The third alternative to the floodwall and the excavation of the opposite stream bank was the no-build, which would not allow BGE to protect its electrical substation from 100-year floods of increasing frequency and consequently provide reliable power to the affected County customers. Most of the 2.6 acres of Forest Buffer to be impacted is currently the gravel or grass yard housing the substation.

EPS finds that the purpose and need of the project coupled with the lack of viable alternatives that avoid impact to the Forest Buffer constitute a practical difficulty in fully complying with the Forest Buffer Law. We further find that the preferred design minimizes potential impacts to water quality and buffer and that impacts to water quality resulting from the flood control project can be adequately minimized by performing mitigative measures both on and offsite.

Based on these findings, the requested variance is hereby granted in accordance with Section 33-3-106 of the Baltimore County Code, with the following conditions:

1. The remaining Forest Buffer area between the proposed flood wall and the streams shall be planted with native species of trees a minimum of 1-inch caliper planted on 15 centers wherever such planting would not interfere with operation of the facility and its electrical transmission lines. If this planting area totals less than 0.80 acre, the balance of the mitigation shall be addressed by purchase of forest buffer mitigation credit at an EPS-approved offsite mitigation bank.
2. A Forest Buffer Protection Plan (FBP) detailing the mitigation required above must be submitted to EPS staff for review and approval concurrent with the grading and sediment control plans. An itemized cost estimate must be included with the FBP along with any request for purchase of offsite mitigation credit, once the amount of offsite mitigation is known.
3. A FBP security based on 110% of the EPS-approved cost estimate shall be posted via an Environmental Agreement prior to grading permit issuance.
4. Documentation of approval from Baltimore County Dept. of Public Works for the proposed alteration of the 100-year floodplain must be submitted to EPS prior to EPS approval of any permit for this project.
5. The following note must appear on all plans submitted for this project:
“A variance was granted by the Baltimore County Department of Environmental Protection and Sustainability from the Law for the Protection of Water Quality, Streams, Wetlands and Floodplains on January 8, 2019. Conditions were placed on this variance to reduce water quality impacts including riparian buffer planting onsite, and offsite mitigation.”

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout may require submittal of revised plans and a new variance request.

As the party responsible for meeting the conditions of this variance, please sign the statement on the following page and return a signed copy of this letter to this Department

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within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

If you have any questions regarding this correspondence, please contact Mr. Glenn Shaffer at (410) 887-3980.

Sincerely yours,

David V. Lykens
Acting Director

DVL:ges

- c. Mr. Daniel Yeager, Century Engineering
Ms. Kelly Neff, Maryland Department of the Environment
Mr. David Thomas, Deputy Director, Baltimore County DPW

I/we agree to the above conditions to bring my/our property into compliance with Law for the Protection of Water Quality, Streams, Wetlands and Floodplains.

BGE Representative's Signature

Date

Printed Name